

STATE OF MAINE  
OFFICE OF SECURITIES  
121 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0121

IN RE:

Trinity Consulting Services, LLC  
American Certificate & Title Company  
Andres Calvo  
David Todd Zussman  
Kevin C. Grom  
Andrew L. Wardein

CEASE AND DESIST ORDER  
No. 03-100-CDO

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Pursuant to 32 M.R.S.A. §§ 10602 and 10708, the Securities Administrator finds and orders as follows:

1. Trinity Consulting Services, LLC (“Trinity”), is a foreign business entity with a last known business address of 17310 Redhill Avenue #135, Irvine, California 92614. Trinity was organized in California in 2002 as a limited liability company. According to the records of the Maine Office of Securities (“the Office”), Trinity has never been licensed, or applied for a license, as a broker-dealer in Maine.
2. American Certificate & Title Company (“ACT”) is a foreign corporation with a last known business address of 655 Anton Boulevard #A, Costa Mesa, California 92626. ACT was incorporated in Nevada in 1999. According to the records of the Office, ACT has never been licensed, or applied for a license, as a broker-dealer in Maine.
3. David Todd Zussman (“Zussman”) is an individual who at all times relevant to this matter has been president, secretary, and treasurer of ACT and a control person of ACT, as defined in 32 M.R.S.A. §10602(3). Zussman’s last known business address is P.O. Box 27740, Las Vegas, Nevada 89126. According to the records of the Office, Zussman has never been licensed, or applied for a license, as a sales representative or investment adviser representative in Maine.
4. Andres Calvo (“Calvo”) is an individual who at all times relevant to this matter acted as a sales representative for Trinity and ACT. Calvo’s last known address is 817 Oceanhill Drive,

Huntington Beach, California 92648. According to the records of Securities, Calvo has never been licensed, or applied for a license, as a sales representative in Maine.

5. Kevin C. Grom (“Grom”) is an individual who at all times relevant to this matter has been a member, manager or partner of Trinity and a control person of Trinity, as defined by 32 M.R.S.A. § 10602(3). Grom’s last known business address is 17310 Red Hill Avenue #135, Irvine, California 92614.
6. Andrew L. Wardein (“Wardein”) is an individual who at all times relevant to this matter has been a member, manager or partner of Trinity and a control person of Trinity, as defined by 32 M.R.S.A. § 10602(3). Wardein’s last known business address is 17310 Red Hill Avenue #135, Irvine, California 92614.
7. On or about April 17, 2003, a man received an e-mail message in his electronic mailbox at his workplace in Maine. He promptly forwarded the message to a co-worker, who was also located in Maine. The subject line of the message read, “Want an Investment Backed By Real Property?” The body of the message read, in part, “Government Guarantees Security In Your Investment” and, “The average return one makes is 15%-50% **GUARANTEED** by the Government, and this is on the low end.”
8. The man’s co-worker, a Maine person, selected an option on the e-mail message that read, “For free information on ‘INSIDER SECRETS TO INVESTING IN GOVERNMENT SECURED TAX CERTIFICATES.’ **CLICK HERE.**” which brought her to another page which read, in part, “Real Estate For Pennies On The Dollar! Or Earn 15-50% Interest On Your Investment **GUARANTEED BY THE GOVERNMENT,**” and which made the following representations:
  - “The highest guaranteed interest returns compared to any other investment.”
  - “Returns up to 100 times your money backed by government property.”
  - “Security in your investment the stock market cannot compare to.”
  - “Tailored programs to accommodate individual needs and goals.”
9. The Maine person submitted an electronic request for the free information on or about April 17, 2003.
10. On or about April 23, 2003, Calvo called the Maine person in response to her Internet request for more information on investing in the government secured tax certificates. They spoke briefly. Calvo agreed to call back later in the day when her husband would be available so that he would also be able learn more about the investment.
11. When Calvo called the Maine person for the second time on April 23<sup>rd</sup>, she and her husband (“the Maine consumers”) told Calvo that they were conservative investors, and initially refused to provide Calvo with information regarding their financial status other than to say

that they were not accredited investors. Calvo described to them a \$5,000 training program he was offering that would teach investors how to make their own investments in tax liens and tax certificates.

12. During the second April 23<sup>rd</sup> telephone call, the Maine consumers told Calvo that they wanted to receive and review the information they had requested online before proceeding further. Calvo agreed to send them the information and to call them back after they had received it.
13. The Maine consumers also informed Calvo that they were not interested in learning how to purchase the tax liens and certificates on their own, but that they were interested in an investment where they did not do any work at all. Calvo stated that if the Maine consumers had more than \$80,000 to invest, they could get involved in a program (hereinafter referred to the “ACT investment”) that he described as follows:

We'll act as agents and we'll do all the work for you—100% of the work. We'll buy all of the tax liens . . . In that situation you guys would keep 100% of the money you make off the return—whatever the percentage is that the county gives you. You make 100% of that money. And where we make our money off that is we split the profits off the properties that we acquire and sell—we split those profits 65-35. We make 35% percent of the net profits on those properties.

14. When the Maine consumers asked if Calvo's company would do all of the research on the property, Calvo answered, “You don't do anything. We're completely agents. You just sit back and wait. We just tie up your money for three years.”
15. On or about April 24, 2003, one of the Maine consumers received, in her electronic mailbox, the free information that Calvo had promised her. The sender of the e-mail message was listed as Andres Calvo, of Trinity Consulting Services. Within the message there was a letter from Zussman, the president of ACT, to potential investors, in which Zussman described how, for a “front-end agency fee” of 15% of the total investment, “ACT will reinvest the client's money for any early redemptions of a lien or deed purchased for the client. For a period of up to 30 months or 3 separate times or a completed lien or deed.” The letter also stated that,

ACT [would] hire all necessary experts to acquire, renovate and sell the property for the client that will produce any net profits to split. After the client receives their original investment capital back. Thereafter the client will receive 65% of all net profits and ACT will receive 35% of all net profits.

16. The Maine consumers received another call from Calvo on April 25, 2003. Calvo discussed again the two different methods of investing. The Maine consumers reiterated their interest

in the passive investment rather than the \$5,000 training program. Calvo agreed to send the Maine consumers the contract that would have to be signed to purchase the ACT investment.

17. During the April 25<sup>th</sup> call, Calvo stated that the investment capital would be illiquid for three years, that ACT would reinvest the money three times during that period, and that the money would be returned to the investor after the end of that three-year period.
18. The contract was mailed to the Maine consumers from Huntington Beach, California, on or about April 29, 2003.
19. On or before May 12, 2003, one of the Maine consumers retrieved a package from Calvo from a United States Post Office. In the package were four documents: An American Certificate & Title Company Agency Consultant Service Agreement (the contract to be completed in order to make the investment with ACT) and three exhibits. “Exhibit A” is a list of ACT’s 26 preferred states in which to purchase tax liens and certificates. “Exhibit B” is a form for investors to complete to indicate (1) how much investment capital they want invested in liens and/or deeds, (2) to which of the preferred states they want their investment capital directed, (3) how they want their capital allocated among residential, commercial, industrial or agricultural properties (although ACT recommends that they only invest in residential property), and (4) “other selected investment criteria that they request ACT to consider when purchasing the liens and/or deeds for them.” “Exhibit C” is a form for investors to complete to provide instructions to the escrow agent.
20. On or about May 12, 2003, Calvo called the Maine consumers, who expressed concern over the contract’s language, which read, **“PRINCIPAL UNDERSTANDS AND AGREES THAT IT IS THEIR SOLE RESPONSIBILITY TO INSTRUCT ACT AS TO THE LIENS OR DEEDS TO BE SELECTED. TO ACCOMPLISH THIS, THE PRINCIPAL SHOULD PERFORM THEIR OWN INVESTIGATION OR RELY ON THEIR OWN PROFESSIONAL ADVISORS AND CONSULTANTS. . . .”** [Emphasis in original.]
21. Calvo reassured the Maine consumers that, despite what the contract said, the investment would in fact be passive—that ACT would determine which liens or deeds to purchase. Calvo explained that ACT would attempt to comply with the investors’ guidelines, but if it could not, ACT would decide which tax liens/certificates to purchase and would purchase them without prior consultation with the Maine consumers. Calvo said that the person choosing which liens to purchase on their behalf would be “purchasing the best liens that can make you guys money and can make us money. Yah, because we’re both trying to make money. That’s the deal.” Calvo also told the Maine consumers that the only time ACT would contact the investor would be if one of the liens was not redeemed, at which time ACT would contact the investor to receive approval to proceed with the foreclosure of the property and to hire a real estate agent to list the property.

22. Calvo said during the May 12 call that their money would be handled by David Zussman, whom Calvo described as a securities lawyer who had been doing this type of investing of other people's money for over ten years.
23. The ACT investment offered by Calvo is an "investment contract" as well as "evidence of indebtedness" and is thus a security under 32 M.R.S.A. § 10501(18). Calvo's offer of the ACT investment therefore involves the offer of securities under the Revised Maine Securities Act (the "Act").
24. Pursuant to 32 M.R.S.A. § 10401, a person may not offer or sell any security in Maine unless the security is registered under the Act.
25. According to the records of Securities, the ACT investment is not registered under the Act for offer and sale in Maine.
26. Calvo, Trinity, and ACT violated 32 M.R.S.A. § 10401 by offering unregistered securities in Maine.
27. Pursuant to 32 M.R.S.A. § 10301(1), it is unlawful for any person to transact business in this State as broker-dealer or sales representative unless licensed to do so.
28. Calvo violated 32 M.R.S.A. § 10301(1) when he offered securities in Maine as a sales representative of Trinity and ACT without being licensed under the Act.
29. Trinity and ACT violated 32 M.R.S.A. § 10301(1) when they offered securities in Maine as a broker-dealer without being licensed under the Act.
30. Pursuant to 32 M.R.S.A. § 10301(2), it is unlawful for any broker-dealer to employ or contract with a person as a sales representative in Maine unless the sales representative is licensed or exempt from licensing under the Act.
31. Trinity and ACT violated 32 M.R.S.A. § 10301(2) when they employed or contracted with Calvo as a sales representative in Maine when he was not licensed under the Act.
32. Pursuant to 32 M.R.S.A. § 10602(3), as a "control person" of ACT, Zussman is liable for the securities law violations of Calvo and ACT to the same extent as Calvo and ACT.
33. Pursuant to 32 M.R.S.A. § 10602(3), as "control persons" of Trinity, Grom and Wardein are liable for the securities law violations of Calvo and Trinity to the same extent as Calvo and Trinity.
34. Pursuant to 32 M.R.S.A. § 10602(1)(A), the Securities Administrator may, after notice and opportunity for hearing, issue a cease and desist order against any person if the Securities

Administrator reasonably believes that the person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of the Act.

35. On August 18, 2003, the Securities Administrator issued a Notice of Intent to Issue a Cease and Desist Order ("Notice") against the respondents, giving each of them thirty (30) days to request a hearing on the matter. All respondents except Calvo requested a hearing.
36. On December 1, 2003, the Securities Administrator issued a Consent Order resolving the matter as to respondents ACT and Zussman.
37. On February 18, 2004, the Securities Administrator issued a Consent Order resolving the matter as to respondents Trinity, Grom, and Wardein.

#### FINAL ORDER

NOW, THEREFORE, it is ORDERED that Calvo permanently CEASE AND DESIST from violating any provisions of the Revised Maine Securities Act, including the prohibitions against offering and selling securities that are neither registered nor exempt from registration under the Act, and transacting business in Maine as a sales representative unless licensed to do so or exempt from such licensing under the Act.

Pursuant to 32 M.R.S.A. § 10708, this is a final order, entered after notice and opportunity for hearing. Pursuant to 32 M.R.S.A. § 10709, a party may obtain judicial review of the order in Kennebec County Superior Court by filing a petition within thirty (30) calendar days after receipt of the order, in accordance with 5 M.R.S.A. § 11001 et seq. and Rule 80C of the Maine Rules of Civil Procedure.

Date: March 15, 2004

s/Christine A. Bruenn  
Christine A. Bruenn  
Securities Administrator

Reviewed by:

Date: March 15, 2004

s/Bonnie E. Russell  
Bonnie E. Russell  
Assistant Securities Administrator

Presented by:

Date: March 15, 2004

s/Michael W. Atleson  
Michael W. Atleson  
Staff Attorney